

REMARKS

Claims 1-28 are currently pending in the present application. All pending claims are subject to restriction as indicated in the Office Action.

The Restriction Requirement:

In the Office Action, the Examiner requires the election of a single invention from among the following five allegedly separate and distinct inventions:

Group I; claims 1-4 and 24, drawn to an article;

Group II; claims 5-8, 25 and 26, drawn to an article;

Group III; claims 9-11 and 23, drawn to an article;

Group IV; claims 12-22, drawn to a method; and

Group V; claims 27-28, drawn to a method.

The Examiner contends that the inventions do not relate to a single general inventive concept under PCT Rule 13.1, because they lack a corresponding technical feature. In this regard, the Examiner contends that Groups I, II and III are directed to different tantalum (*i.e.*, nanocrystalline, single crystal and amorphous), and summarily concludes that, “the common feature of groups I [*sic*] cannot qualify as a special technical feature as it does not provide a contribution over the prior art . . .” (*See*, the Office Action, p. 3). Based on this assessment, the Examiner argues that the recited “technical feature” can not be considered a special technical feature linking the inventions and thus argues that restriction is proper.

Provisional Election with Traverse:

In the event the Examiner maintains the Restriction Requirement set forth in the Office Action despite consideration of the traversal remarks which follow, Applicants provisionally elect, *with traverse*, the claims of **Group I** (claims 1-4 and 24) for prosecution on the merits.

Traversal of the Requirement:

Applicants respectfully *traverse* the Examiner's Requirement for Restriction and the rationale in support thereof. Applicants respectfully submit that at least Groups I, II and III (claims 1-11 and 23-26) ought to be examined simultaneously.

Group I is directed to tantalum films. Group II is directed to tantalum films. Group III is directed to tantalum films. The Examiner has not indicated any divergence of classification. Each group of tantalum films is likely similarly classified. Moreover, there is no indication, nor any evidence or rationale, that would suggest any undue burden on the Examiner if simultaneous examination of Groups I, II and III were undertaken.

Each of Groups I, II and III is directed to tantalum films. A complete search and examination of art directed to tantalum films having the recited x-ray diffraction characteristics is likely to encompass the recited parameters of each group regardless of the single crystal, nanocrystalline or amorphous characterization.

Applicants respectfully submit that there is no undue burden placed on the Examiner or the Office by the simultaneous examination of claims 1-11 and 23-26. Reconsideration of the Requirement is respectfully requested.

Respectfully submitted,

PRABHAT KUMAR, et al.

Dated: _____

 May 1, 2009

By _____

Aaron R. Ettelman

Registration No.: 42,516

CONNOLLY BOVE LODGE & HUTZ LLP

1007 North Orange Street

P.O. Box 2207

Wilmington, Delaware 19899

(302) 888-6435

(302) 658-5614 (Fax)

E-mail: aettelman@cblh.com